



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,562	02/12/2004	Donald R. Loveday	1999U027.RE.US	1101

7590 07/12/2007  
Univation Technologies LLC  
Suite 1950  
5555 San Felipe  
Houston, TX 77056

EXAMINER
----------

CHEUNG, WILLIAM K

ART UNIT	PAPER NUMBER
----------	--------------

1713

MAIL DATE	DELIVERY MODE
-----------	---------------

07/12/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/777,562

Applicant(s)

LOVEDAY ET AL.

Examiner

William K. Cheung

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 June 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

Art Unit: 1713

### **DETAILED ACTION**

1. The examiner acknowledges the receipt of the amendment filed June 22, 2007, claims 1-15 are pending.
2. In view of the Oath/declaration filed June 22, 2007, the defective oath/declaration issue is moot.
3. In view of the Oath/declaration filed June 22, 2007, the rejection of Claims 1-15 as being based upon a defective reissue Oath/declaration under 35 U.S.C. 251 is withdrawn.

### **Non-Compliance**

4. The amendment filed July 28, 2006 proposes amendments to claims 1-15 that do not comply with 37 CFR 1.173(b), which sets forth the manner of making amendments in reissue applications. A supplemental paper correctly amending the reissue application is required.

A shortened statutory period for reply to this letter is set to expire ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this letter.

Applicants' amendment should contain Mark-ups to indicate the amendment as compared to the original patent, which is US 6,271,323.

Claim 1 (line 6), "bulky ligand metallocene-type" is considered non-compliant because "bulky ligand metallocene" is found on the original claim 1 of US 6,271,323.

5. Claims 1-15 are rejected under 35 U.S.C. 251 as being broadened in a reissue application filed outside the two year statutory period. It appears that applicant is broadening claim 1 by inserting "type" after the claimed "bulky ligand metallocene catalyst". A claim is broader in scope than the original claims if it contains within its scope any conceivable product or process which would not have infringed the original patent. A claim is broadened if it is broader in any one respect even though it may be narrower in other respects.

6. Claims 1-15 are rejected under 35 U.S.C. 251 as being improperly broadened in a reissue application made and sworn to by the assignee and not the patentee. A claim is broader in scope than the original claims if it contains within its scope any conceivable product or process which would have infringed the original patent. A claim is broadened if it is broader in any one respect even though it may be narrower in other respects.

### ***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 1713

8. Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 (line 6), the recitation "bulky ligand metallocene-type catalyst" is considered indefinite, because the specification fails to provide a definition, which to set the metes and bound of the claimed term "bulky ligand metallocene-type catalyst". The examiner acknowledges that applicants' specification (col. 9, line 12 to col. 11, line 52) discloses several embodiments regarding a "bulky ligand metallocene-type catalyst". However, the disclosure fails to set forth a single definition, which can set the metes and bound of the claims.

### ***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 1713

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

10. Claims 1-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Sugimura et al. (JP 10-330412), English translated.

Sugimura et al. (page 4, claim 1) disclose a catalyst substantially identical to the catalyst as claimed. Further, Sugimura et al. (page 66, 0199) disclose a polymerization process comprising olefins and the catalyst described. Sugimura et al. (page 66, 0200) disclose that the polymerization process is a solution or suspension polymerization process. Since Sugimura et al. contain all the features of claims 1-15, claims 1-15 are anticipated.

11. Claims 1-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Sugimura et al. (JP 10-330416).

Art Unit: 1713

Sugimura et al. (page 9, 0067) disclose a catalyst substantially identical to the catalyst as claimed. Further, Sugimura et al. (page 28, 0172) disclose that the polymerization process is a solution or suspension polymerization process. Since Sugimura et al. contain all the features of claims 1-15, claims 1-15 are anticipated.

12. Claims 1-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Imuta et al. (WO 98/34961).

Imuta et al. (abstract) disclose an olefin polymerization process comprising a catalyst that is substantially identical to the catalyst as claimed. Further, Imuta et al. (abstract) disclose that the polymerization process is a slurry process with aliphatic or alicyclic hydrocarbon. Since Imuta et al. contain all the features of claims 1-15, claims 1-15 are anticipated.

13. Claims 1-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Imuta et al. (US 6,255,419).

Imuta et al. (abstract) disclose an olefin polymerization process comprising a catalyst that is substantially identical to the catalyst as claimed. Further, Imuta et al. (col. 80, line 27-32) disclose that the polymerization process is either a liquid phase polymerization process including solution polymerization and suspension

Art Unit: 1713

polymerization, or gas phase polymerization. Since Imuta et al. contain all the features of claims 1-15, claims 1-15 are anticipated.

### ***Conclusion***

14. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William K Cheung whose telephone number is (571) 272-1097. The examiner can normally be reached on Monday-Friday 9:00AM to 2:00PM; 4:00PM to 8:00PM.



Art Unit: 1713

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David WU can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



William K. Cheung, Ph. D.

Primary Patent Examiner

July 6, 2007

**WILLIAM K. CHEUNG  
PRIMARY EXAMINER**